

Mustang Air Express, Inc. and International Brotherhood of Teamsters, Local Union No. 776, AFL-CIO.¹ Cases 4-CA-18058 and 4-CA-18181

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On May 22, 1991, the National Labor Relations Board issued an Order and Direction adopting, in the absence of exceptions, the findings and conclusions in the decision of the administrative law judge, directing Mustang Air Express, Inc., to make whole the discriminatees for loss of earnings and other benefits resulting from their discharges in violation of the National Labor Relations Act. On June 9, 1992, the United States Court of Appeals for the Third Circuit entered a judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay due discriminatees, on January 29, 1993, the Regional Director for Region 4 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated March 23, 1993, the trial specialist in Region 4 advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by April 2, 1993, summary judgment would be sought. The Respondent filed no answer.

On May 24, 1993, the General Counsel filed with the Board a Motion for Summary Judgment, with exhibits attached. On May 27, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specifica-

tion. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent to the discriminatees.

ORDER

The National Labor Relations Board orders that the Respondent, Mustang Air Express, Inc., Middleton, Pennsylvania, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

Joseph Harwin	\$ 2,130.37
Muhammad Ali	17,451.31

Dated, Washington, D.C. June 28, 1993

James M. Stephens,	Chairman
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Dennis M. Devaney,	Member
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John Neil Raudabaugh,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ The name of the Charging Party has been changed to reflect the new official name of the International Union.